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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,903	03/18/2005	Dennis Smith	SCHULMAN 10 PCT	9049
25666 7590 02/19/2008 THE FIRM OF HUESCHEN AND SAGE SEVENTH FLOOR, KALAMAZOO BUILDING 107 WEST MICHIGAN AVENUE KALAMAZOO, MI 49007				
EXAMINER				
NUTTER, NATHAN M				
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
02/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,903

Applicant(s)

SMITH ET AL.

Examiner

Nathan M. Nutter

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/55/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Amendment

The rejection of claims 2-10, 12-14, 19 and 21-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, is hereby expressly withdrawn.

Claim Interpretations

The language of each of claims 1, 7 (and, subsequently claim 8, dependent thereon), 9, 10, 19 and 23, as amended, changes the scope of the claims. The added recitations of each of claims 1 and 23 provide for a Markush group of constituents that was not earlier recited. The language of claim 7 (and, subsequently claim 8) changes the scope of the claim from a recitation that the composition of claim 1 has a further constituent that being an "interfacial agent," as previously recited, into a choice of "impact modifiers" that have been subsequently amended into claim 1. Claim 7, as originally filed, is reproduced below.

7. The polyolefin blend of claim 1, which includes an interfacial impact modifier selected from a styrene-ethylene interpolymers, styrenic block copolymer or elastomer, and a random styrenic copolymer or elastomer, all of which may have been modified with maleic anhydride.

The recitations in each of claims 9, 10 and 19, likewise, change the scopes of each of those claims from a further constituent, to a choice of the amended now-recited Markush group of impact modifiers.

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As such, the following rejections are properly made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 11-15, 18 and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hausmann (US 6,288,156).

The reference to Hausmann shows the contemplated blend at the Abstract, column 2 (line 14) to column 3 (line 7), the paragraph bridging column 3 to column 4 and column 5 (line 28) to column 6 (line 6).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 11-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hausmann (US 6,288,156) as applied to claims 1-3, 6, 11-18, and 20-23 above, and further in view of Smith et al (US 6,207,761).

The reference to Hausmann teaches the identical process with identical results as in claims 1-3, 6, 11-18 and 20-23. The reference does not show the cross-linked elastomer.

The reference to Smith et al teaches the production of a polymer blend that may include a polypropylene resin, a cross-linked ethylene containing elastomer and a thermoplastic ionomer that may be neutralized with metals, as recited herein. Note the Abstract and column 2 (lines 53-64) for the broad concept.

Employment of the cross-linked elastomer of Smith et al in the composition of Hausmann would have been obvious to a skilled practitioner for benefits derived therefrom, including stability, impact strength, etc..

Claims 1-3, 6-8, 11-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hausmann (US 6,288,156) as applied to claims 1-3, 6, 11-18, and 20-23 above, and further in view of Smith et al (US 6,177,515), newly cited.

The reference to Hausmann teaches the identical process with identical results as in claims 1-3, 6, 11-18 and 20-23. The reference does not show the styrene copolymer grafted with maleic anhydride.

The reference to Smith et al teaches the production of a polymer blend that may include a polypropylene resin with a styrene copolymer grafted with maleic anhydride as a suitable impact modifier. Note the Abstract and column 6 (lines 12-22).

Employment of the grafted styrenic copolymer of Smith et al in the composition of Hausmann would have been obvious to a skilled practitioner for benefits derived therefrom, including stability, impact strength, etc..

Claims 1-3, 6 and 11-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hausmann (US 6,288,156) as applied to claims 1-3, 6, 11-18, 20 and 23 above, and further in view of Yazaki et al (US 5,468,444), newly cited.

The reference to Hausmann teaches the identical process with identical results as in claims 1-3, 6, 11-18 and 20-23. The reference does not show the inclusion of the ionomer wax constituent.

The reference to Yazaki et al teaches the production of a polymer blend that may include a polypropylene resin with a suitable impact modifier and erucamide (ionomer wax). Note the Abstract and column 5 (lines 1-60).

Employment of the ionomer wax constituent of Yazaki et al in the composition of Hausmann would have been obvious to a skilled practitioner for benefits derived therefrom, including stability, impact strength, etc..

Response to Arguments

Applicant's arguments filed 22 January 2008 have been fully considered but they are not persuasive.

With regard to the rejection of claims 1-3, 6, 11-15, 18 and 20-23 under 35 U.S.C. 102(b) as being anticipated by Hausmann, applicants have failed to address the

rejection with any modicum of reasoning, only to state "that Hausmann does not disclose polymer compositions comprising the specific impact modifiers recited in amended Claim 1." The Examiner is at a loss to rebut this statement without some clear reasoning.

With regard to the rejection of claims 1-6, 11-18 and 20-23 under 35 U.S.C. 103(a) as being unpatentable over Hausmann in view of Smith et al, applicants, again, fail to address the merits of the rejection with reasoning.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 571-272-1076. The examiner can normally be reached on 9:30 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nathan M. Nutter/

Nathan M. Nutter
Primary Examiner
Art Unit 1796

nmn

13 february 2008